

MINUTES OF THE MEETING
OF THE CITY COUNCIL OF THE
CITY OF BURLINGTON
September 18, 2007
9:00 A.M.

The City Council of the City of Burlington held a regularly scheduled meeting in the Council Chamber, Municipal Building, 425 South Lexington Avenue, Burlington, North Carolina, 27215 on September 18, 2007, at 9:00 a.m.

Mayor Stephen M. Ross presided

Councilmembers present: Mayor Ross, Councilmembers Jones, Huffman, Starling and Wall

Councilmembers absent: None

Harold Owen, City Manager, present

Robert M. Ward, City Attorney, present

Jondeen D. Terry, City Clerk, present

INVOCATION: Councilmember Don Starling

PROCLAMATION: Constitution Week - September 16-23, 2007

MINUTES

Mayor Ross called for approval of the City Council minutes of the meeting of September 4, 2007.

Upon motion by Councilmember Wall, seconded by Councilmember Starling, it was resolved unanimously to approve the minutes of the meeting held on September 4, 2007.

ADD-ON'S TO CONSENT AGENDA:

- 1(C) Set date of public hearing - Dog Park
- 1(D) Voluntary water conservation measures

Upon motion by Councilmember Starling, seconded by Councilmember Wall, it was resolved unanimously to add the above-mentioned items to the consent agenda.

CONSENT AGENDA:

Item 1:

A) To temporarily close the following streets during the Holiday Magic Downtown on Friday, November 30, 2007:

- 4:00 p.m. - 9:00 p.m.
Front Street from Worth Street to Spring Street
- 5:00 p.m. - 9:00 p.m.
Spring Street from Webb Avenue to Davis Street
Davis Street from Worth Street to Spring Street
Worth Street from Front Street to Davis Street
Main Street from Maple Avenue to Front Street

B) To adopt a resolution of intent setting a date of public hearing for October 16, 2007, to consider a request to permanently close the right-of-way of Melville Alley between Morehead Street and Maple Avenue.

07-25

RESOLUTION OF INTENT BY THE CITY COUNCIL OF THE CITY OF BURLINGTON PURSUANT TO N.C.G.S., SECTION 160A-299 TO PERMANENTLY CLOSE THE RIGHT-OF-WAY OF MELVILLE ALLEY BETWEEN MOREHEAD STREET AND MAPLE AVENUE

WHEREAS, the City Council of the City of Burlington has recently received a request to permanently close the right-of-way of Melville alley between Morehead Street and Maple Avenue.

WHEREAS, the City Council of the City of Burlington hereby declares its intent to permanently close the right-of-way of Melville alley between Morehead Street and Maple Avenue, and hearing on said matter is to be held on October 16, 2007, at 7:30 p.m. in the Council Chamber, Municipal Building.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Burlington, pursuant to N.C.G.S., Section 160A-299, does hereby declare its intent to permanently close the right-of-way of Melville alley between Morehead Street and Maple Avenue and more particularly described as follows:

A certain tract or parcel of land in Burlington Township, Alamance County, North Carolina, and being more particularly described as follows:

BEGINNING at an existing iron pipe, said pipe being in the western right-of-way of W. Maple Avenue and the southern right-of-way of Melville alley and said pipe being N 36°49'43" W 163.05' from an existing iron pipe at the northwest intersection of the rights-of-way of W. Maple Avenue and S. Worth Street; running thence with the southern right-of-way of Melville Alley S 53°17'18" W 214.94' to an existing iron pipe in the in the eastern right-of-way of W. Morehead Street; thence with the eastern right-of-way of W. Morehead Street and crossing Melville alley N 41°14'48" W 19.63' to an exiting nail in the eastern right-of-way of W. Morehead Street; thence with the northern right-of-way of Melville alley N 53°17'48" E 217.34' to a new iron pipe set in the western right-of-way of W. Maple Avenue; thence crossing Melville alley S 34°12'40" E 19.56' to the point and place of beginning and containing 4226 square feet, more or less, as surveyed by Landmark Surveying, Inc., dated July 10, 2007.

That the City Clerk shall duly advertise that a public hearing will be held on this matter in the Council Chambers, Municipal Building, Burlington, North Carolina, on Tuesday, October 16, 2007, at 7:30 p.m.

- C) To set a date of public hearing for November 6, 2007, to consider a recommendation from the Recreation and Parks Commission to establish a dog park at the City Park on open space at the corner of Kitchin Street and Overbrook Road and that the dog park be named as a memorial to Mr. Jiggs Askew.
- D) To instate voluntary water conservation measures that would reduce water consumption and to reduce the amount of water sold to the City of Greensboro by 15%.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to approve the foregoing consent agenda.

PUBLIC HEARINGS:

ITEM 2: AMEND CONDITIONAL INDUSTRIAL REZONING - CHANDLER
CONCRETE

Mayor Ross announced that a public hearing had been scheduled to consider amending a previously approved Conditional Industrial rezoning for Chandler Concrete, Inc. The request is to allow the following: (1) hours of operation on the site to be unlimited; (2) modification of the Use Conditions to clarify the sale of concrete, cut stone and clay, including masonry products and related materials; and (3) modification in the Development Conditions to allow the storage of concrete, cut stone and clay, including without limitation, masonry products and related materials. The Conditional Industrial rezoning was approved by the Burlington City Council on March 21, 2006. The property is located on the east side of Huffman Mill Road approximately 1,900 feet south of University Drive as shown on Alamance County Tax Map 3-23-530.

Upon motion by Councilmember Huffman, seconded by Councilmember Wall, it was resolved unanimously to allow Councilmember Jones to be recused from voting on this item due to Chandler Concrete being Mr. Jones' client.

Mr. Lawson Brown, Jr., Vernon, Vernon, Wooten, Brown, Andrews & Garrett, P.A., representing Chandler Concrete, Inc., introduced Mr. Bob Chandler, Officer and Director of Chandler Concrete, Inc. Mr. Brown stated that the City Council approved this Conditional rezoning request about a year ago. He requested amendments to the Conditional Industrial rezoning as listed above.

Ms. Shirley Isley, adjacent property owner, asked that the 50-foot buffer of pine trees remain. She objected to the rezoning.

Mr. Brown said that the changes in Use and Development Conditions would not interfere with the 50-foot buffer.

Upon motion by Councilmember Huffman, seconded by Councilmember Wall, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved the adoption of the following ordinance:

ORDINANCE TO AMEND CONDITIONAL INDUSTRIAL DISTRICT APPROVED FOR
CHANDLER CONCRETE

BE IT ORDAINED by the City Council of the City of
Burlington, North Carolina:

Section 1. That Chandler Concrete, Inc., has requested that the Use and Development Conditions previously approved in the Conditional Industrial District be amended to include unlimited operational hours and the sale and storage of concrete, cut stone and clay including masonry products and related materials. The property is located on the east side of Huffman Mill Road approximately 1,900 feet south of University Drive as shown on Alamance County Tax Map 3-23-530.

Section 2. That the amendment to the Conditional Industrial rezoning is hereby authorized subject to the following Use and Development Conditions:

Use Conditions

1. Hours of operation for the site shall be unlimited.
2. Use Conditions shall be amended to clarify the sale of concrete, cut stone and clay, including masonry products and related materials.
3. All other Use Conditions previously approved by the City Council March 21, 2006, shall remain in effect.

Development Conditions

1. Development Conditions shall be amended to allow the storage of concrete, cut stone and clay including without limitation concrete masonry products and related materials in the north and northeast areas of the parcel designated "possible future office" on the site plan dated January 5, 2005, prepared by the L.E.A.D.S. Group, P.A.
2. All other Development Conditions previously approved by the City Council March 21, 2006, shall remain in effect.

Section 3. This property will be perpetually bound to the uses authorized and subject to such conditions as imposed including site plans and other submissions, unless subsequently changed or

amended as provided for in the City of Burlington Zoning Ordinance.

Section 4. Any violations or failure to accept any conditions and use limitations imposed herein shall be subject to the remedies provided in the City of Burlington Code of Ordinances and Zoning Ordinance.

Section 5. That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

Section 6. That this ordinance shall take effect upon passage.

The foregoing ordinance was seconded by Councilmember Wall, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Huffman, Starling and Wall. Councilmember Jones abstained.

ITEM 3: REZONE PROPERTY - EXTENSION OF EXISTING
TELECOMMUNICATIONS TOWER - SOUTH CHURCH STREET

Mayor Ross announced that a public hearing had been scheduled to consider rezoning from B-2, General Business District, to CB, Conditional Business, to allow for the extension of an existing telecommunications tower. The property is located on the southwest corner of South Church Street and International Drive behind Burlington Fire Station No. 4 as shown on Alamance County Tax Map 3-18-20A.

Mr. Brent McConkey with Parker, Poe, Adams and Bernstein, LLP, representing Crown Castle International, stated that the request was to extend the tower by 19 feet in height to allow more coverage for cell customers. He stated that he had received a letter of approval from the FAA and the blessings of Mr. Dan Danieleley, Burlington-Alamance Airport Authority.

Upon motion by Councilmember Starling, seconded by Councilmember Wall, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved the adoption of the following ordinance:

ORDINANCE TO AMEND OFFICIAL ZONING MAP (Rezone Property for Extension of Telecommunications Tower)

BE IT ORDAINED by the City Council of the City of Burlington, North Carolina:

Section 1. That the official zoning map, an element of the Burlington Zoning Ordinance, and the Comprehensive Land Use Plan are hereby amended by rezoning from B-2, General Business District, to CB, Conditional Business District, subject to those conditional uses with limitations as set forth in Sections 2, 3 and 4 of this ordinance the area described as follows:

Property located on the southwest corner of South Church Street and International Drive as shown on Alamance County Tax Map 3-18-20A.

Section 2. That the rezoning from B-2 to CB is hereby authorized subject to the following Use and Development Conditions:

Use Condition

Additional antennae shall be placed on the existing telecommunications tower on the site.

Development Condition

- 1) There shall be a 19-foot extension to the existing 137-foot telecommunications tower.
- 2) The tower shall meet all FAA requirements.

Section 3. This property will be perpetually bound to the uses authorized and subject to such conditions as imposed including site plans and other submissions, unless subsequently changed or amended as provided for in the City of Burlington Zoning Ordinance.

Section 4. Any violations or failure to accept any conditions and use limitations imposed herein shall be subject to the remedies provided in the City of Burlington Code of Ordinances and Zoning Ordinance.

Section 5. That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

Section 6. That this ordinance shall take effect upon passage.

The foregoing ordinance was seconded by Councilmember Starling, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Jones, Huffman, Starling and Wall.

ITEM 4: AMEND CONDITIONAL BUSINESS REZONING - WAL-MART/MURPHY OIL USA SITES

Mayor Ross announced that a public hearing had been scheduled to consider amending a Conditional Business rezoning approved for Wal-Mart on July 20, 2004. The request is for a Unified Business Development to allow the existing Wal-Mart site to be subdivided whereas the Murphy Oil USA site will stand on a lot separate from the Wal-Mart site. The property is located on the southeast corner of North Mebane Street and South Graham-Hopedale Road as shown on Alamance County Tax Map 149-582-202.

Planning and Economic Development Director Robert Harkrader that the request for a Unified Business Development would allow the existing Wal-Mart site to be subdivided whereas the Murphy Oil USA site will stand on a lot separate from the Wal-Mart site. He explained that the signage and access would not change.

Mr. Eric Ramussen, representing Wal-Mart Real Estate Business Trust, was present.

Upon motion by Councilmember Starling, seconded by Councilmember Wall, it was resolved unanimously to close the public hearing.

Councilmember Jones moved the adoption of the following ordinance:

07-37

ORDINANCE TO AMEND CONDITIONAL BUSINESS REZONING FOR UNIFIED BUSINESS DEVELOPMENT - WAL-MART AND MURPHY OIL USA

BE IT ORDAINED by the City Council of the City of Burlington, North Carolina:

Section 1. That Wal-Mart has requested to amend a Conditional Business rezoning for a Unified Business Development to allow the existing Wal-Mart site to be separate from the Murphy Oil USA site. The property is located on the southeast corner of North Mebane Street and South Graham-Hopedale Road as shown on Alamance County Tax Map 149-582-202.

Section 2. That approving the amendment will permit the following changes in Use and Development Conditions:

Use Conditions

1. Gas pumps, retail sales and all other commercial uses permitted in the Conditional Business District shall be allowed on the Murphy Oil USA site.
2. All previously approved Use Conditions shall remain in effect.

Development Conditions

1. The Development Conditions previously approved for the Wal-Mart site shall remain with the Murphy Oil USA site.
2. Existing signage shall remain on the two sites as previously approved.
3. All access and parking shall remain as for the Conditional Business rezoning approved by City Council on July 20, 2004.
4. No new access points shall be allowed on North Mebane Street or South Graham-Hopedale Road.
5. The existing two site layouts shall remain as previously approved.
6. All previously approved Development Conditions shall remain in effect.

Section 3. This property will be perpetually bound to the uses authorized and subject to such conditions as imposed including site plans and other submissions, unless subsequently changed or amended as provided for in the City of Burlington Zoning Ordinance.

Section 4. Any violations or failure to accept any conditions and use limitations imposed herein shall be subject to the

remedies provided in the City of Burlington Code of Ordinances and Zoning Ordinance.

Section 5. That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

Section 6. That this ordinance shall take effect upon passage.

The foregoing ordinance was seconded by Councilmember Starling, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Jones, Huffman, Starling and Wall.

ITEM 5: REZONE PROPERTY - CHAPEL HILL ROAD

Mayor Ross announced that a public hearing had been scheduled to consider rezoning from B-2, General Business District, to R-9, Residential District, the property located on the south side of Chapel Hill Road approximately 300 feet northwest of Malone road as shown on Alamance County Tax 12-9-84.

Mr. Steve Massey stated that he was requesting to rezone the property to R-9 to have consistent zoning with the remainder of the property.

Upon motion by Councilmember Jones, seconded by Councilmember Starling, it was resolved unanimously to close the public hearing.

Councilmember Jones moved the adoption of the following ordinance:

07-38

ORDINANCE TO AMEND OFFICIAL ZONING MAP (Rezone Property on Chapel Hill Road)

BE IT ORDAINED by the City Council of the City of Burlington, North Carolina:

Section 1. That the official zoning map, an element of the Burlington Zoning Ordinance, and the Comprehensive Land Use Plan

are hereby amended by rezoning from B-2, General Business District, to R-9, Residential District, the property located on the south side of Chapel Hill Road approximately 300 feet northwest of Malone Road as shown on Alamance County Tax 12-9-84.

Section 2. That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

Section 3. That this ordinance shall take effect upon passage.

The foregoing ordinance was seconded by Councilmember Wall, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Jones, Huffman, Starling and Wall.

ITEM 6: REZONING PROPERTY - ANTHONY ROAD

Mayor Ross announced that a public hearing had been scheduled to consider rezoning from I-1A, Planned Industrial-Residential District, to CI, Conditional Industrial District, to allow construction of a manufacturing building permitting offices and all uses in I-1A zoning districts. The property is located on the south side of Anthony Road approximately 780 feet southwest of Old Trail Road as shown on Alamance County Tax Map 12-5C-37.

Mr. Chad Huffine with The L.E.A.D.S. Group, P.A., representing Hinson Manufacturing Company, stated that the request was being made in order to relax setback requirements.

Upon motion by Councilmember Huffman, seconded by Councilmember Wall, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved the adoption of the following ordinance:

07-39

ORDINANCE TO AMEND OFFICIAL ZONING MAP (Rezone Property on Anthony Road)

BE IT ORDAINED by the City Council of the City of Burlington, North Carolina:

Section 1. That the official zoning map, an element of the Burlington Zoning Ordinance, and the Comprehensive Land Use Plan are hereby amended by rezoning from I-1A, Planned Industrial-Residential District, to CI, Conditional Industrial District, subject to those conditional uses with limitations as set forth in Sections 2, 3 and 4 of this ordinance the area described as follows:

Property located on the south side of Anthony Road approximately 780 feet southwest of Old Trail Road as shown on Alamance County Tax Map 12-5C-37.

Section 2. That the rezoning from I-1A to CI is hereby authorized subject to the following Use Conditions:

Use Conditions:

1. All uses permitted in I-1A zoning districts including offices.
2. No outdoor storage shall be permitted.

Section 3. This property will be perpetually bound to the uses authorized and subject to such conditions as imposed including site plans and other submissions, unless subsequently changed or amended as provided for in the City of Burlington Zoning Ordinance.

Section 4. Any violations or failure to accept any conditions and use limitations imposed herein shall be subject to the remedies provided in the City of Burlington Code of Ordinances and Zoning Ordinance.

Section 5. That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

Section 6. That this ordinance shall take effect upon passage.

The foregoing ordinance was seconded by Councilmember Wall, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Jones, Huffman, Starling and Wall.

ITEM 7: SUBMISSION OF CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER)

Mayor Ross announced that the City Council would consider approving the submission of the Consolidated Annual Performance and Evaluation Report (CAPER) for the Community Development Program for the 2006-2007 program year.

Assistant Planning Director Susan Taylor stated that staff had publicized the public hearing and the required 15-day citizen comment period. She stated that no comments were received. Ms. Taylor asked for comment at the public hearing and there were none.

Councilmember Jones stated that partnering with the North Carolina Home Builders Association and the North Carolina Housing Finance Agency to operate a local program to train low-income area residents and/or homeless persons to become construction workers was a wise use of resources.

Councilmember Huffman pointed out that Community Development Block Grant (CDBG) funds continued to be used for infrastructure needs in target areas of the City and that the use of those funds has made a significant impact to the community.

Upon motion by Councilmember Starling, seconded by Councilmember Wall, it was resolved unanimously to close the public hearing.

Upon motion by Councilmember Starling, seconded by Councilmember Huffman, it was resolved unanimously to approve the submission of the CAPER to the US Department of Housing and Urban Development (HUD).

NEW BUSINESS:

ITEM 8: PROPOSED FEE CHANGES – INDIAN VALLEY GOLF COURSE

Mayor Ross announced that the City Council would consider approving proposed fee changes for Indian Valley Golf Course.

Recreation and Parks Director Tony Laws stated that the Recreation and Parks Commission recommended a fee increase for Indian Valley Golf Course as listed below:

GREEN FEES	<u>Weekday</u>	<u>Weekend & Holiday</u>
Ride Before 1pm	Current \$22 Proposed \$23	Current \$29 Proposed \$30
Ride After 1pm	Current \$17 Proposed \$18	Current \$24 Proposed \$25
Walk Before 1pm	Current \$13 Proposed \$14	Current \$22 Proposed \$23
Walk After 1pm	Current \$9 Proposed \$10	Current \$17 Proposed \$18
Walk Senior-Senior includes Juniors, Students and Totally Disabled	Current \$8 Proposed \$9	
Ride Senior-Senior includes Juniors, Students and Totally Disabled	Current \$16 Proposed \$17	
Senior Special (Mon-Fri 18 holes) (inc. cart and fee)	Current \$16 Proposed \$17	

ANNUAL GREEN FEES	INDIVIDUAL	FAMILY (Includes individual, spouse and children under 21 residing in the same household)
Alamance County	Current \$750 Proposed \$800	Current \$900 Proposed \$950
Non-Alamance County	Current \$800 Proposed \$850.00	Current \$950 Proposed \$1000.00
Senior Bonus Card-Current \$80 - Proposed-\$85.00		

Upon motion by Councilmember Jones, seconded by Councilmember Huffman, it was resolved unanimously to approve the proposed fee changes for Indian Valley Golf Course.

STAFF REPORT:

ITEM 9: PUBLIC WORKS DEPARTMENT STAFF REPORT

Mayor Ross announced that Public Works Director Gary Hicks would give a street paving update, a sidewalk update and an equipment services fuel plan update.

Mr. Gary Hicks stated that the paving project was complete except for striping. He said that \$3,991,865.69 of a \$4,000,000 contract had been spent and that 35.66 miles of street had been paved. He stated the sidewalk work began August 2007 and was expected to continue until February 2008. He told the Council that the Equipment Services Division was in the process of transitioning the City's fuel usage from the traditional gasoline/diesel fuels to biodiesel and an ethanol blend in gas. He stated that plans eventually call for the transition of diesel to B-10 and finally B-20, which is a 20% blend of biodiesel.

PUBLIC COMMENT PERIOD:

There were no public comments.

ADJOURN:

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to adjourn.

Jondeen D. Terry
City Clerk